

19 March 1946

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ARIZONA ATTORNEY GENERAL

Livestock Sanitary Board
State Capitol Annex
Phoenix, A r i z o n a

Gentlemen:

We are in receipt of your letter of 12 March 1946, in which you request an opinion from this office relative to the following:

"Please advise this office as to whether a person buying surplus meat from a licensed slaughter house and peddling it to licensed retailers at wholesale, should be licensed.

Under (d) Sec. 2, Sec. 50-804 Arizona Code of 1939, as amended by the 17th Legislature, peddlers are licensed the same as retailers. Our question is, 'does the law just cover retail peddlers or is this wholesaler even considered as a peddler'?"

Section 50-804-(d), as amended in 1943, provides, insofar as pertinent, as follows:

"(d) Every peddler or retailer of fresh meat of any neat animals, horses, mules, asses, sheep or goats, shall, before offering such meat for sale or exchange, procure a license therefor from the livestock sanitary board, for which he shall pay an annual license fee of ten dollars (\$10.00) for each place of business, store, stand, market or vehicle wherein or wherefrom such meat is to be sold or exchanged, * * * * *

As will be noted, the licensing provisions specifically relate only to peddlers or retailers of fresh meat. The wholesalers mentioned by you clearly are not selling at retail nor can it be said that they fall within the definition of the word 'peddler'. There is no provision in our statutes requiring wholesalers of fresh meats to procure a license.

Livestock Sanitary Board
Capitol Annex, Phoenix.

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The Legislature, in enacting the above provision, probably intended to provide for the licensing of all dealers in fresh meats, whether they were wholesalers, retailers, or peddlers. This, of course, would have been a valid exercise of the police power. However, in confining Section 50-804-(d) to "every peddler or retailer", the Legislature excluded wholesalers from the licensing provisions.

Therefore, it is our opinion that the persons situated as set forth by you in your request are not required to be licensed in order to engage in such business.

Yours very truly,

JOHN L. SULLIVAN
Attorney General

BURR SUTTER
Assistant Attorney General

BS:prb